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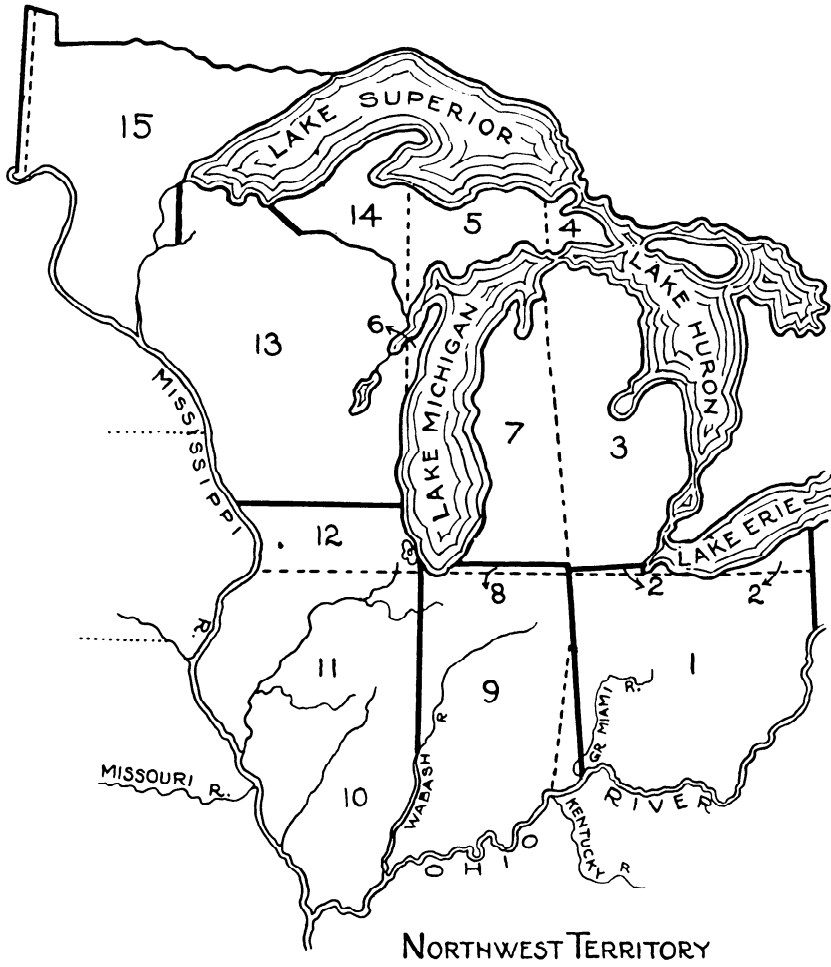
The North-West Territory

BY CHARLES A. KENT.

The treaty of 1763 between France and England marking the end of the French and Indian War secured to the latter nation undisputed claim to the territory bounded by Spanish Florida on the south, the Atlantic Ocean on the east, the Mississippi River on the west, north to the Arctic Ocean. For two years after the treaty was signed, Pontiac's War prevented the full establishment of English authority over this Illinois country, so the tri-color of France waved over Fort Chartres till late in 1765, when the British ensign was hoisted there.

Soon thereafter the king of England proclaimed the country bounded by the Alleghanies, the Ohio and Mississippi rivers, and the thirty-fifth parallel on the south as "Indian Country," and directed settlers from the Atlantic seaboard colonies to refrain from entering the region. Following up such tactics as these, which added to the rapidly increasing friction between England and her American subjects, his majesty, the king, in 1774 deliberately chose to attach all the territory north of the Ohio River and west as far as the Mississippi to the Province of Quebec, and French laws were to operate within its boundaries.

The attention of settlers had been drawn to this region through and at the time of Washington's sweeping victory over the French in the capture of Fort Du Quesne in 1755, thereby opening the way for colonial migration thither. Men who would build homes, adventurers and military leaders came flocking over the Alleghanies from Virginia chiefly, since the Potomac and Alleghany rivers afforded the best route



from that State, but also from New Jersey, Delaware, Maryland and Pennsylvania.

Under the provision and encouragement of the Quebec Act, French settlers, missionaries, and even local forms of government predominated now for a time, strongly stimulated and supported by English direction, all too often through misrepresentation of the character and motives of the struggling pioneers who braved the terrors of Indian treachery and frontier hardships to establish homes in the western wilderness. Under such a practice of the crown, the Indians were won over in many cases and at once and the same time turned against the settlers of English extraction from east of the mountains, and therein one can easily see how the Quebec Act of 1774 added much in precipitating the inevitable conflict, breaking into a war of revolt on the part of her American colonies, which came with determination and full fury in 1775. In many of the remote settlements and centers of French residence and military strength scattered about, the French were systematically misinformed as to the rise of the American colonists against the mother country, and had been taught to dread the Virginia farmers and hunters and look upon them as perpetual enemies.

Among those coming from Virginia were George Rogers Clark and Daniel Boone. A few months' stay among the settlers of Kentucky convinced Clark of the attitude of the English government, and he resolved to hasten with all speed back to Patrick Henry, the governor of Virginia, and make the situation plain to him.

The autumn of 1777 and the following winter brought three important events which were to have a distinctive bearing on western history. (a) Burgoyne, a British general commanding the land forces in the eastern campaign of the Revolution, finding himself and army completely hemmed in at Saratoga by General Greene, surrendered with six thousand soldiers. England was now willing to grant the colonists everything except actual independence; (b) France entered into a treaty of alliance and friendship with the colonies the following February, wherein it was agreed that the war with England

should now continue till complete independence were acknowledged, and France was to give her powerful aid; (c) the third important event was the act of the Continental Congress, then in session, in drafting a series of "Articles of Confederation and Perpetual Union," and sending a copy to each colony for ratification.

Burgoyne's complete defeat turned the attention of England in the war to western affairs, and the further encouragement of the French to look upon the Britishers as their friends and at the sea-board colonists as unspeakable enemies was industriously carried forward.

On the second day of the new year, 1778, Governor Henry commissioned Clark to fit out a command, and bestowed on the enterprise six thousand dollars as aid in the equipment. Organizing with much difficulty from the remnants of patriots yet left about the small towns of the State, most of the stronger men being already at the front in the struggle against the British along the ocean shore, Clark made his way at once westward to the wild, sparsely settled Illinois country, to seize control of it from the English, in whose hands it had been since 1765, when the French commandant surrendered Fort Chartres. A crude organization of the motley command was effected by Clark on the present site of Cincinnati, then Fort Washington, the skilled and patriotic leader sifting the men, and allowing those to turn back who feared to go further, or whose interest in the final aim was waning. Eliminating those who now would retrace their steps, something like two hundred men—a veritable "Gideon's Band,"—started on the further advance.

The English held Kaskaskia, fifty miles below St. Louis, on the east bank of the Mississippi River; Vincennes, on the east side of the Wabash, and Detroit, to the far northeast, on Lake St. Clair. The latter stronghold was the nearest base of supplies for the English, with Hamilton in command. Small French forces were nominally holding Kaskaskia and Vincennes, the former under Rocheblave.

Clark's victories were quite remarkable, Kaskaskia, Vincennes and Fort Chartres all falling readily into his hands,

for, on finding their captors friendly, instead of dreaded "long-knives" and Kentucky barbarians, as they had been led to believe the settlers to the east and south across the Ohio to be, the simple-hearted French peasantry welcomed the new leadership that was to "do them good and not evil."

Mention has been made above of the drafting of the Articles of Confederation for submission to the several colonies by the congress of delegates in session at Philadelphia. Those were the days before the telegraph or other rapid means of rapid communication, and it is interesting to find that just a week before George Rogers Clark, with his raw recruits, landed at old Fort Massac, in southern Illinois, to march overland to take Kaskaskia, Maryland, through her delegates in Congress June 22, 1778, was proposing, and afterwards insisted as the price of her acceptance of the Articles, "that the boundaries of each of the States, as claimed to extend to the River Mississippi, or South Sea, should be ascertained and restricted, and that property in the soil of the western territories be held for the common benefit of all the States."

Along with Maryland's refusal to ratify the Articles until the "western lands" were surrendered to Congress, Delaware, another small State with no western claims, through her delegate speaking in the Continental Congress, February 22, the following winter declared that "The United States in Congress assembled should and ought to have the power of fixing their western limits"—a region "gained from the king of Great Britain, or the native Indians by the blood and treasure of all."

With a feeling that her militiamen under Clark had saved the western region from retention by the British, and with many poorly paid Revolutionary soldiers mustered out from the warfare with England in the campaigns along the Atlantic, Virginia planned the establishment of a land office in the territory beyond the Ohio, an action contrary to the best interests of the cause against England "during the continuance of the present war," according to a measure of protest introduced in the Continental Congress October 30, 1779, requesting Vir-

ginia "to forbear settling or issuing warrants for unappropriated lands."

The Revolution dragged a wearying course through the days and weeks and months. Arnold's treason served to make the winter of 1779-80 one of the darkest days; it was a time to sorely try the resistance of the Colonies; money was needed; all the Colonies were heavily in arrears in payment of their troops. Men ought, it seemed, come together in greater offensive alliance. But all the while within the walls of the State House at Philadelphia, the differences grew happily less acute in the presence of the common foe, and in the clearer hope and vision of a new nation.

So, after much discussion, mutual concession and agreement, a plan was outlined in Congress in October, 1780, whereby "unappropriated lands that may be ceded or relinquished to the United States . . . shall be disposed of for the common benefit . . . and be settled and formed into distinct republican States, which shall become members of the Federal Union, and have the same rights of sovereignty, freedom and independence as the other States . . . that necessary and reasonable expenses which any particular State shall have incurred since the commencement of the present war, in subduing any British posts, or in maintaining forts or garrisons within and for the defense or in acquiring any part of the territory that may be ceded or relinquished by the United States, shall be reimbursed."

New York, which had claimed rather largely, though somewhat indefinitely, all the region west and northwest, led off the following March, 1781, by restricting her western boundaries and relinquishing her claims in lands to the west in order "to accelerate the Federal alliance." Cornwallis surrendered at Yorktown the succeeding October, and active hostilities ceased.

Two years later at Versailles a treaty was made recognizing the rights and bounds of the new nation, spread from the Mississippi River east to the Atlantic Ocean, and from Florida, then in possession of the Spanish, on the south, to the St. Lawrence River and Great Lakes for the most part, on the

north. The English delegates to the treaty conference stood fast and firm for a line which should give their sovereign the title to the region north and west of the Ohio River, but the American delegates, Franklin and Jay, pointed out the practical conquest of the area by Clark and his intrepid followers independent of the general Revolutionary campaigns of the war proper, with the result that the territory was thus permanently saved, in the Treaty of Versailles, for the United States. The treaty of peace was followed by the cession one after the other of their western claims; by Virginia in 1784, Massachusetts in 1785, and Connecticut in 1786, although the latter State retained a rectangular "reserve" in northeast Ohio until 1800. In the faith that common justice would be meted out to all at the close of the war, Maryland had signed the Articles of Confederation in 1781, and the operation of the government under that instrument of authority at once began. Half a dozen years' trial developed its inherent weaknesses, and in 1787 steps were taken to draft a workable form of government—a National Constitution. The same year witnessed the promulgation of an ordinance for the direction of affairs and establishment of authority in the Northwest Territory.

In the correspondence of General Washington appears a letter written on the very day of the signing of the Treaty of Versailles to James Duane, a member of Congress from New York, suggesting some changes in the management of the whites and Indians of the Northwest Territory, and declaring the time to be ripe for blocking out a State there. In his description he suggests two areas for statehood roughly corresponding to the present boundaries of Ohio and Michigan, with "a government sufficiently extensive to fulfill all public engagements, and to receive a large population by emigrants."

On the 23rd of the following April, 1784, a committee report, drafted by Jefferson, suggested the division of the land into ten States, most of them bearing classical names which smacked of the very ancient,—as that movement at the time deeply affected American thought, such as Sylvania, Michigania, Polypotamia, Saratoga, etc .

Article five of the ordinance itself provided for forming "not less than three nor more than five States," but a careful study of subsequent events, from 1800, at the time of the first division, till 1858, when the last acre of the territory had been admitted to statehood, shows the letter of the ordinance departed from quite materially in readjusting the boundaries of every State of the area, and that "more than five States" were formed therefrom, the land west of the St. Croix River having been attached to Minnesota Territory March 3, 1849, and admitted with it as part of the State in 1858.

According to the ordinance, furthermore, "the Western State" was to be "bounded by the Mississippi, the Ohio, and the Wabash rivers; a direct line drawn from the Wabash and Post Vincents (Vincennes), due north... (to Canada)... and (west) to the Lake of the Woods and Mississippi. The Middle State shall be bounded by said direct (Illinois-Indiana) line (on the west, the Ohio River on the south), by a direct line drawn due north from the mouth of the Great Miami River to the said territorial line (Canada). The Eastern State by the last mentioned direct (Indiana-Ohio) line, the Ohio (river), Pennsylvania and the said territorial (Canada) line."

It was still further provided that these three States might be altered to admit of "two other States" which would lie "north of an east and west line drawn through the southerly bend or extreme of Lake Michigan." Five States were eventually formed from the territory provided in the ordinance, but in the end not one was bounded exactly as stipulated in the famous fifth article of that historic document.

By an act of Congress approved May 7, 1800, the first division of the territory was made. By the Treaty of Greenville, August 3, 1795, following Wayne's overwhelming defeat of Little Turtle and his dusky confederates at the battle of Fallen Timbers, a line had been run from the mouth of the Kentucky River in a northerly direction to Fort Recovery, now rebuilt and thus renamed, after St. Clair's humiliating defeat there some years before. The new line of demarcation setting up two parts of the region followed the Greenville treaty line to Fort Recovery, thence due north to the international boun-

dary near the extreme northeast angle of what is now the Upper Peninsula of the State of Michigan. West of that line was to bear the name of "Indiana Territory," with a seat of government at Vincennes on the Wabash; the remainder, east of the dividing line, bore the title, "Territory Northwest of the River Ohio," with a government at Chillicothe.

W. Hickey, in his "Constitution," a work published in 1854 rather close to national authority and encouragement, and going extensively into questions of constitutional history, speaking of Ohio says (page 413):

"An act to enable the people of the eastern division of said territory to form a constitution and State government was passed and approved April 30, 1802, by which that State was allowed one representative in Congress. A constitution was accordingly formed on November 1, 1802, and presented to Congress.

"The said people having, on November 29, 1802, complied with the act of Congress, of April 30, 1802, whereby the said State became one of the United States, an act was passed and approved on February 19, 1803, for the due execution of the laws of the United States, etc., within that State."

This first Ohio constitution fixed the northern boundary through "the southerly extreme of Lake Michigan," as mentioned in the ordinance of 1787, and the constitutional convention in session at Chillicothe would doubtless have concurred therein, but an old trapper sojourning in the town at the time of the convention declared strongly that Lake Michigan was further south than shown on most maps.

Any extension of the boundary to the south would give the State a lesser frontage on Lake Erie, and the pushing of her north line farther north would proportionately extend her frontage along the lake. The Maumee River empties into the lake thereabouts, on whose north shore the flourishing commercial city of Toledo now stands. Ohio very much desired to have her north line intersect the lake at "the most northerly cape of the Miami (Maumee) Bay," and the convention hastened to insert a provision to their ratification of the constitu-

tion, praying for such demarcation. The President of the United States, moreover, was directed by Congress to appoint a committee who should *run the arc of a great circle eastward from the southern bend of Lake Michigan to determine the line*, and the result was to move it to its present intersection with Lake Erie. Ohio was duly admitted to the Union, and it was assumed that Congress agreed to the shift in the boundary, since mention thereof was inserted in Ohio's act enabling her to become a State. By drawing the arc of a great circle eastward as indicated, it would exactly intersect Lake Erie at "the most northerly cape of Miami Bay."

On January 11, 1805, the Territory of Michigan was erected out of the area east of the middle of Lake Michigan, and bounded on the south by an east and west line through the south end of that lake, and on the east and northward by a line roughly following the middle of Lake Huron, constituting, therefore, the present Lower Peninsula of Michigan.

With Ohio relying on the language of her enabling act, which gave as her northern boundary a line touching "the most northerly cape of the Miami Bay," and with the people of Michigan Territory believing that their southern boundary was according to the ordinance of 1787, on a direct east and west line through the south end of Lake Michigan, there was sooner or later to be an inevitable controversy between Ohio and Michigan, and it has been sometimes alluded to as the "Toledo war," though no blood was spilt in the strife. In common with every State of the group, Ohio soon realized the tremendous importance of as large a water front on the Great Lakes as could be secured under the permission of Congress. The possession of the mouth of the Maumee River and of the growing settlement of Toledo was worth fighting for, and the dispute occupied the minds of statesmen for several years.

The people of Michigan Territory were not inclined to accept the government engineer's report of 1834, establishing the southern boundary of their territory as intersecting Lake Erie north of the mouth of the Maumee River. Without waiting for the customary enabling act formally to be offered them by Congress, a territorial convention assembled at Detroit in

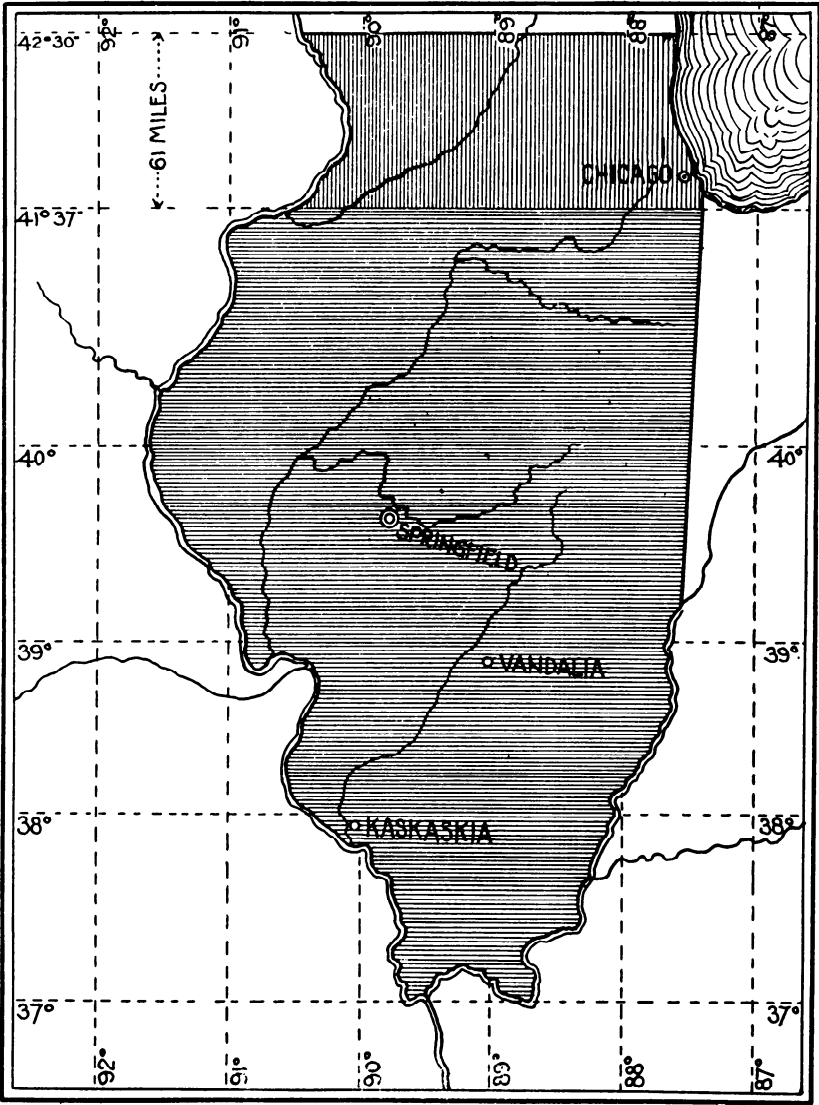
May and June, 1835, adopted a State constitution wherein the *demand* was made upon Congress for the establishment of boundaries "in conformity to the fifth article of the ordinance. . . ." President Jackson in a special message the following December laid the matter before Congress for adjustment. Congress offered the people the Upper Peninsula; Michigan refused the offer, and went so far as to completely reject it, in a convention called to consider the matter in September, 1836. The vexed question was settled finally, however, but not at the time at all satisfactory to many people in the State, by an acceptance of the terms of Congress in a second convention called December 15, 1836, where the enabling act of Congress was voted on and ratified by a majority of the citizens, and the Upper Peninsula, with its then unknown mighty wealth of copper deposits and iron ore awarded to Michigan, in compensation for her relinquishment of the so called "Toledo strip." The State was formally admitted to the Union January 26, 1837.

February 3, 1809, Illinois Territory was organized, the east boundary to be the meridian of Vincennes, the Wabash River and the Ohio to its juncture with the Mississippi. The limits of Indiana were restricted to those of the present State except that part of what is now Door County, Wisconsin, and Delta, Alger, Schoolcraft and parts of Chippewa counties in Michigan, were still attached to it, and with the further exception that a ten-mile strip north of the line running east and west through the southern bend of Lake Michigan was added to allow greater water frontage for the territory on Lake Michigan. In this instance, as in the case of practically all the States of the Northwest Territory, as the region grew to be better known, and commerce and population increased the prescribed lines of the ordinance of 1787 were deviated from to satisfy the demands of the several States.

The greatest departure from the original lines was brought about with the admission of Illinois to statehood in 1818. Indiana had been admitted December 11, 1816, and her far north fragments had been attached to Michigan Territory.

In the enabling act admitting Illinois to the Union, Nathaniel Pope, territorial congressman, urged the State's admission, accompanied by a resolution to extend the north boundary sixty-one miles, to forty-two degrees and thirty minutes, with the argument that "the State, lying between the Mississippi Valley and the Lake Basin, and resting upon both, should be brought into relation with the States east by way of the lakes as well as the States south by way of the (Ohio) river." Also, that if the mouth of the Chicago River were included within her limits, the State would be interested in a canal connecting the two systems of waters, and in improving the harbor on the lake—an argument for the Illinois-Michigan waterway. He insisted upon the State's rights to a lake frontage, and also used the argument that, from 1789 to 1861, was made to do duty in almost every kind of political emergency: namely, that if shut out from the northern waters, in case of a national disruption, the interests of Illinois would be to join a southern or western confederacy, but that if a large part of it could be made dependent upon the commerce and navigation of the northern lakes, connected as they were with the eastern States, a rival interest would be set up to check the development of any coalition further west or south. Her interests would then be balanced, as it were, and her inclination turned toward the north.* A considerable population had grown up in what is now the northwest portion of the State, around Galena, interested in the mineral deposits there, and the splendid soil of the entire sixty-one-mile strip enticed settlers who had come thither by way of the lakes and landed at the mouth of the Chicago River. This would produce increasing concern as to government, and while all legal recourse to restitution by Wisconsin was stopped by the admission of Illinois to the Union in 1818, the settlers, and perhaps more actively the politicians and territorial officials of the region, contended more or less actively for its re-attachment to Wisconsin, but they were all certainly doomed to final disappointment. The controversy ended only with the final admission of Wisconsin to statehood,

*Hinsdale's "Old Northwest."



STATE OF ILLINOIS.

thus presenting a contention similar to that between Michigan and Ohio over the "Toledo strip."

As population began to pour into the new Louisiana Purchase beyond the Mississippi River, there was need for organizing that area into smaller and more definite units, and in 1834 that part north of the Missouri River and east of it, west to the White Earth River and north to the forty-ninth parallel, was added to Michigan Territory. With the legislation of Congress indicating an early settlement of Michigan's stormy boundary affairs and her admission to statehood, Wisconsin Territory had been organized April 20, 1836, embracing all of Michigan Territory after admitting the State to the Union, which admission the following year, January 26, 1837, has been previously referred to in this paper.

On the 12th of June, 1838, Iowa Territory was formed from that part of Wisconsin Territory west of the Mississippi River and of a line due north from the headwaters of that river to the Canadian boundary. Wisconsin retained the same limits as a territory for practically ten years, till on May 29, 1848, shorn of the Upper Peninsula to enlarge and appease the State of Michigan for concessions in the Maumee-Toledo controversy, and stripped of fourteen counties by the admission of Illinois to statehood in 1818, she came into the Union, the last of the five entire States from the original "territory northwest of the River Ohio." Wisconsin was to suffer a final additional amputation at the time of her own admission to the Federal Union, for the people of the St. Croix River valley to the west rather inclined to fusion with the new region farther westward, and the State of Wisconsin was to have the St. Croix River, instead of the Mississippi as most of her western boundary, a line due north to the west extreme of Lake Superior completing the demarcation. The excluded area seems to have lain unaffiliated with any State or Territory for nearly ten months, or until Minnesota Territory was organized March 3, 1849, when it was incorporated therein, the limits of Minnesota Territory on the north being the forty-ninth parallel, west to the White Earth River except the queer "jog" near the Lake of the Woods, thence southward along

that river to the Missouri, thence following that stream to where the State of Iowa rests on its east bank, thence northerly to Iowa's northwest corner, east to the Mississippi, and finally up that stream to its junction with the St. Croix River.

Iowa was admitted as a State December 28, 1846.

On the admission of Minnesota, within her present boundaries, as a State May 11, 1858, the very last acre of the original Northwest Territory had finally assumed the full dignity of statehood in the Federal Union of States—five entire States, with a large fraction helping to make another—Minnesota.

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